

# Lowell Zoning Board of Appeals Minutes

**March 28, 2022 6:30 P.M.**

**Note:** These minutes are not completed verbatim. For further detail, contact the Division of Development Services, 375 Merrimack Street, Lowell, MA or refer to video recordings available online at [www.LTC.org](http://www.LTC.org).

**Members Present:** Chairman Perrin, Member Pech, Member Callahan, Member McCarthy, Member Briere, Member Procope

**Members Absent:** Member Njoroge

**Others Present:** Dylan Ricker, Associate Planner; Serena Gonzalez, Assistant Planner

*The following represents the actions taken by the Zoning Board of Appeals at the 3/28/2022 meeting. This meeting was held in the City Council chambers. However, due to the COVID-19 pandemic, attendees had the ability to participate via Zoom as permitted by the Governor's 3/10/2020 emergency order to suspend certain provisions of the Open Meeting Law.*

*Chairman Perrin called the meeting to order at 6:31 PM*

## **I. Continued Business**

### **ZBA-2022-3**

*Petition Type:* **Variance**

*Applicant:* **505 Capital Partners, LLC**

*Property Located at:* **38-40 Swift Street, 01852**

*Applicable Zoning Bylaws:* **Section 5.1 and Section 6.1.10**

*Petition:* **505 Capital Partners, LLC has applied to the Zoning Board of Appeals to subdivide the existing lot at 38-40 Swift Street and construct a new two-family dwelling on the new lot. The property is located in the Traditional Neighborhood Two-Family (TTF) zoning district and requires Variance approval under Section 5.1 for minimum lot area per dwelling unit, minimum frontage, minimum and maximum front yard setbacks, minimum side yard setback, and minimum rear yard setback, under Section 6.1.10 to exceed the maximum allowed curb cut, and for any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Ken Lania, Applicant's Representative

K. Lania said the applicant previously requested a continuance to address staff comments, and the updated plans reflect staff comments on the design. K. Lania said DPD is supportive of a condition granting DPD building design approval and the applicant is in agreement to the condition.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

V. Pech stated he saw the meeting and updated plans, and expressed support for the petition.

S. Callahan asked about the plantings. K. Lania said they are on the Site Plan and explained the proposed Landscaping Plan. K. Lania noted they intend to replace some trees which are removed. S. Callahan expressed support for the petition with the condition of DPD having design approval.

D. McCarthy asked about the proposed rear facing garage and how cars would be maneuvered into the garage. K. Lania said the buyer has recreational vehicles which they intend to store in the garage. K. Lania said that recreational vehicles storage is the primary intent of the garages.

D. McCarthy asked about the architectural plans showing stairs leading down the side and asked about discrepancies with the Site Plan. K. Lania said plans were revised to show the correct size of the steps, and added that the plans were not yet submitted so alterations could be made to the designs. K. Lania said a final plan will be submitted to DPD prior to a building permit. D. McCarthy clarified this would be conditions, K. Lania confirmed.

D. McCarthy said he prefers to see the final plans prior to approval, but is ok with the DPD approval condition.

M. Briere agreed with concerns regarding not seeing final architectural plans prior to approval. M. Briere said the original plans were not supported by staff, but noted significant updates were made on the design. M. Briere said he believes enough updates have been made to the elevations to approve the project. M. Briere said he prefers to see architectural plans prior to approval, but trusts DPD staff, and expressed support for the petition.

G. Procope agreed with the preference to see final plans. G. Procope said based on updates he will support the application.

G. Perrin expressed support for the petition, but would seek support for a continuance to see final documents.

V. Pech said the petitioned has made good process and believes it is best practice to see final documents prior to approval. K. Lania said he is amenable to continuing the petition to the 4/11 meeting.

Motion:

S. Callahan motioned, and M. Briere seconded the motion to continue the application to the April 11, 2022 Zoning Board meeting. The motion passed unanimously, (5-0).

**ZBA-2022-10**

*Petition Type:* **Variance**

*Applicant:* **Niranjan Bhagat**

*Property Located at:* **45 Katherine Drive, 01854**

*Applicable Zoning Bylaws: Section 5.1*

**Petition: Niranjn Bhagat has applied to the Zoning Board of Appeals to construct an addition to the existing single-family at 45 Katherine Drive. The property is located in the Suburban Single-Family (SSF) zoning district, and requires Variance approval under Section 5.1 for relief from the Maximum Floor Area Ratio (FAR) requirement, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Niranjn Bhagat, Applicant  
45 Katherine Dr, Lowell, MA

N. Bhagat said he is planning to construct an addition on the rear side of the home, and to construct a front porch, and room above the garage. N. Bhagat said he is applying for Variance approval for the project.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

S. Callahan said the proposed project does not appear to have a negative impact on the neighborhood, and the project fits within the scheme of the building.

V. Pech agreed with S. Callahan. V. Pech said the application is straight forward and the relief requested is minimal and expressed support.

G. Procope agreed, and said there does not appear to be a negative impact. G. Procope said he would support the application.

M. Briere said he is in favor of the petition.

D. McCarthy asked how the FAR is calculated. D. Ricker explained how staff calculates the FAR. D. McCarthy expressed support for a condition requiring the applicant add the total FAR to the plans. D. McCarthy asked about the scope of the addition. N. Bhagat explained the scope. D. McCarthy expressed support for the restraint shown by not encroaching on setbacks or raising the height of the home, and said he would support the application.

D. McCarthy asked what happens if the FAR exceeds 0.4. D. Ricker said the ZBA is approving the proposed project only and for whatever FAR that brings, which based on calculation appears to 0.4.

G. Perrin expressed support for the petition and is glad the applicant showed restraint.

Motion:

S. Callahan motioned to approve the Variance with the following condition:

1. The applicant shall update the Site Plan to reflect the proposed FAR.

V. Pech seconded the motion. The motion passed unanimously, (5-0).

## **II. New Business**

### **ZBA-2022-7**

*Petition Type:* **Variance**

*Applicant:* **KM Construction**

*Property Located at:* **76 Epping Street, 01852**

*Applicable Zoning Bylaws:* **Section 5.1**

*Petition:* **KM Construction has applied to the Zoning Board of Appeals to construct an addition to the existing single-family home at 76 Epping Street. The property is located in the Traditional Single-Family (TSF) zoning district. The proposal requires Variance approval under Section 5.1 for relief from the maximum floor area ratio (FAR) requirement, and any other relief required under the Lowell Zoning Ordinance.**

#### On Behalf:

Kyle Matthew, Applicant's Representative

K. Matthew said the applicant is seeking to construct an addition to the home. K. Matthew explained the plans for the proposed addition. K. Matthew explained the location of the addition, and said there would be a bathroom and bedroom in the addition. K. Matthew said on the original plans the side yard setback was not met, but the plans were revised to meet the side yard setback.

#### Speaking in Favor:

None

#### Speaking in Opposition:

None

#### Discussion:

D. McCarthy asked why the applicant was using posts rather than a full foundation for the addition. K. Matthew said there was no particular reason, just cost related. D. McCarthy asked whether the basement would be finished and asked what would happen if they did. D. Ricker said if the basement has enough height to meet the habitable space requirement under the building code it would be included in the FAR already, and if it were to be made to be habitable space and is not proposed as such it would require a minor modification. K. Matthew said the space is only a crawlspace and not habitable. D. McCarthy expressed support.

M. Briere said he believes the relief is minimal and is supportive of the petition. V. Pech agreed that the relief is minimal and addition would add value to the home.

G. Procope agreed with fellow Board members and said it would have a minimal impact on the neighborhood.

S. Callahan agreed and said the application is requesting minimal relief.

G. Perrin expressed support for the petition and noted the comments related to any proposed changes to the crawlspace requiring a minor modification.

Motion:

S. Callahan motioned, and D. McCarthy seconded the motion to approve the Variance. The motion passed unanimously, (5-0).

**ZBA-2022-9**

*Petition Type:* **Variance and Special Permit**

*Applicant:* **HMD Enterprises**

*Property Located at:* **1201 Westford Street 01851**

*Applicable Zoning Bylaws:* **Section 6.3**

*Petition:* **HMD Enterprises has applied to the Zoning Board of Appeals seeking Special Permit and Variance approval at 1201 Westford Street. The applicant seeks to erect an internally illuminated pylon sign at the property, this would be the second pylon sign at the property. The subject property is located in the Office Park (OP) zoning district. The proposal requires Special Permit approval from the Zoning Board of Appeals pursuant Section 6.3 to erect an internally illuminated sign, Variance approval pursuant Section 6.3 to erect a second pylon sign at the property, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Vasu Patel, Applicant's Representative

V. Patel said the applicant is proposing an internally illuminated pylon sign. V. Patel noted they cannot have a wall sign due to the shape of the building. V. Patel said the sign was created to be unique and explained the design.

Matt Hamor, Applicant's Representative

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

M. Briere said he had no questions and supported the petition. G. Procope said he is supportive. V. Pech agreed, and said the sign is in line with surrounding signage.

S. Callahan said he is supportive and confirmed the sign was internally illuminated. S. Callahan asked the hours of operation for the business. V. Patel said hours have not been finalized but other locations close at 9pm. S. Callahan said the City standard for illumination hours for signage is 1 hour after sunset or 1 hour after closing whichever comes later.

S. Callahan noted there is another sign on the site, and asked if there would be any obstruction. V. Patel said the sign will not obstruct view of sign and added it will not obstruct the view of cars entering or exiting the site. V. Patel said he is amenable to the illumination condition.

D. McCarthy asked what part of the sign would be illuminated. V. Patel said the 'full harvest moonz cannabis dispensary', the side of the sign, the top of the sign, and some hexagons will be illuminated. D. McCarthy said he is supportive of a condition showing the sign location on a site plan to confirm it is on the applicant's property. M. Hamor said they can provide a site plan showing the location of the sign.

G. Perrin explained the two proposed conditions for the signage. V. Patel agreed.

Motion:

S. Callahan motioned to approve the Special Permit with the following conditions:

1. The hours of illumination shall be one (1) hour before sunrise to one (1) hour after sunset or one (1) hour after close of business, whichever comes later; and
2. The applicant shall submit a site plan confirming the location of the sign is on the subject property.

D. McCarthy seconded the motion. The motion passed unanimously, (5-0).

S. Callahan motioned to approve the Variance with the following conditions:

1. The hours of illumination shall be one (1) hour before sunrise to one (1) hour after sunset or one (1) hour after close of business, whichever comes later; and
2. The applicant shall submit a site plan confirming the location of the sign is on the subject property.

V. Pech seconded the motion. The motion passed unanimously, (5-0).

**ZBA-2022-11**

*Petition Type:* **Variance**

*Applicant:* **Lynn Lowell LLC**

*Property Located at:* **4-8 Wiggin Street & 153 Willie Street, 01854**

*Applicable Zoning Bylaws:* **Section 5.1 and Section 6.1**

*Petition:* **Lynn Lowell LLC has applied to the Zoning Board of Appeals and Planning Board to construct a 12-unit residential structure on the currently vacant lots at 4-8 Wiggin Street & 153 Willie Street. The subject property is located in the Urban Multi-Family (UMF) zoning district. The project requires Site Plan Review approval pursuant Section 11.4.2 from the Planning Board, Variance approval from the Zoning Board of Appeals pursuant Section 5.1 for relief from the minimum side yard setback, and minimum rear yard setbacks, pursuant Section 6.1 for relief from the minimum off-street parking requirement, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

George Theodorou, Applicant's Representative

G. Theodorou said the project was approved by the Planning Board for Site Plan Review last week with a number of conditions. G. Theodorou explained the history the purchase of the lot and zoning change for the subject properties. The zone was changed to UMF to allow the type of proposed development. G. Theodorou said the Council passed the zoning change, and the property was voted on as surplus property. G. Theodorou said the lot is in the Acre Revitalization Plan area. G. Theodorou said the Council and Planning Board found the zoning change aligned with the Acre Plan and the surrounding properties and was a 'logical extension'.

G. Theodorou said that Alan Kazanjian owns a lot of property on Dutton Street and noted he is aware of Fletcher Street plans submitted by Alan Kazanjian. G. Theodorou said the proposed development is a compliment to that property and this why the abutter was not contacted.

G. Theodorou explained the relief being sought and explained the applicant is proposing to create on-street parking to benefit the City, and compensate for the relief sought from the off-street parking requirement. G. Theodorou noted the parking will not impact the width of the street and submitted a curb analysis showing large trucks can pass down the street.

G. Theodorou noted staff comments in support of the petition. G. Theodorou noted the site is underutilized and has challenging site conditions including the existing hill which must be removed to accommodate the development. G. Theodorou said based on the cost of the site, the number of units is necessary to make the site work financially. G. Theodorou said the soil conditions, shape, and topography affect the land and qualifies the petition for a Variance.

G. Theodorou explained the City support for the proposed development, and noted the properties would be viable, tax generating properties for the City developed completely privately.

G. Theodorou added that the applicant agreed to add a crosswalk as a condition of approval with the Planning Board. G. Theodorou addressed a letter submitted opposing the development noting that that the proposal largely meets the intent of the UMF zone.

Matt Hamor, Applicant's Representative

M. Hamor explained the site plan, including the existing conditions and proposed plans.

Speaking in Favor:

None

Speaking in Opposition:

Alan Kazanjian, Kazanjian Enterprises

A. Kazanjian said he heard about the petition via public notice. A. Kazanjian said he spoke with the applicant and was disappointed they did not meet with abutters about the project. A. Kazanjian said he feels 12 units is too dense and feels it would be detrimental to the neighborhood. A. Kazanjian expressed concerns about parking.

Peter Maloney

P. Maloney said the application did not include stormwater plans. M. Hamor said they have met with the stormwater team and explained the stormwater plans. M. Hamor explained the applicant is working directly with the stormwater team.

P. Maloney asked about the land that does not appear to be part of the lot on the Wiggin Street frontage. M. Hamor said the City owns a portion of the land. P. Maloney asked if the City granted permission to regrade the street. M. Hamor confirmed the City granted permission.

Dave Ouellette, Acre Neighborhood Group

D. Ouellette asked about snow storage and the dumpster location. D. Ouellette said street parking is a challenge at the site, and there is not a significant amount of green space. D. Ouellette said he is concerned about the grade of Willie Street and about footings being in the City ROW.

David Gray, 33 Varnum Ave Lowell MA

D. Gray said the area is very crowded and said there is heavy vehicle usage of the roadway. D. Gray asked about the regrading and maintenance of the retaining wall. D. Gray asked about fire access, and expressed concern about off-street parking.

Discussion:

G. Theodorou said the Fire Department did not provide comments and the Planning Board placed a condition that the project be subject to Lowell Fire Department approval. G. Theodorou said the applicant will remove snow from site and the condo association will be responsible for snow removal. G. Theodorou said there will individual trash containers for each unit and no commercial dumpster. M. Hamor said the applicant has met with stormwater and is meeting with the City Engineer's Office related to the project.

M. Hamor explained stormwater comments. G. Theodorou said the applicant is amenable to a condition requiring the condo association maintain the retaining wall. M. Hamor said the City would maintain the parking, but are amenable to maintaining the sidewalk and on-street parking. M. Hamor said the green area on the site plan can be used for snow storage for smaller storms, and snow can be removed for larger storms. M. Hamor noted that 7 units have patios and noted the open space on the property. M. Hamor said the property is on a hill and not conducive to a flat area. M. Hamor said the applicant will either obtain an easement for the footing or will use an L-shape footing that would not be in the City ROW. M. Hamor said both buildings will have sprinklers.

G. Perrin clarified trash would be self-stored and removed. M. Hamor confirmed.

G. Theodorou said there are garages for each unit. G. Perrin asked about trash trucks turning around. G. Theodorou said this could be resolved in a condition.

D. McCarthy said the City is in a housing crisis and in need of housing similar to what is being proposed. D. McCarthy asked about the grading of the access drive. M. Hamor said that it is a 10% grade. D. McCarthy asked if this is similar to parking garages, M. Hamor confirmed. D. McCarthy noted it is steep, but doable.



D. McCarthy asked about the necessity for 12 units. G. Theodorou said this was based on preliminary discussions with DPD and their requests. D. McCarthy asked about the green space, G. Theodorou noted the proposed patios. D. McCarthy said the front 5 units do not have patios but the rear 7 do. M. Hamor confirmed this. D. McCarthy asked about the height of the buildings noting the grading impacts the total building height. M. Hamor said the building is 3.5 stories where 6 stories is allowed.

M. Hamor noted the application was carefully vetted and the applicant has been working closely with the City on the project. G. Theodorou noted the lot has been dormant and underutilized since 1939.

D. McCarthy noted Housing Choice Coalition meetings which have emphasized the necessity of specifically smaller housing. D. McCarthy said the proposal would address this need. D. McCarthy asked why the property needs to be 12 units. G. Theodorou said based on conversations with the City the lot can accommodate 12 units. D. McCarthy asked if 10 units could work at the site. G. Theodorou said the development must be 12 units to work financially. G. Theodorou said economics is a hardship and said a literal enforcement requires substantial financial hardship and reiterated the project cannot go forward without 12 units.

D. McCarthy expressed support for the 8 conditions imposed by the Planning Board. G. Theodorou noted that the Historic Board would have final review over the design. M. Hamor explained the architectural comments from the Planning Board and said the applicant was amenable.

M. Briere said he walked the site and doesn't know how the project fits on the site. M. Briere said the City needs not only housing but also affordable housing. M. Briere said the area is congested. M. Briere asked about trash removal. G. Theodorou said this would be via a private company and the site is accessible. M. Briere asked why the units were broken up into 2 buildings in the way they were. M. Hamor explained the proposed plan. M. Briere asked the distance between the 2 buildings, M. Hamor said it is 35 feet. M. Briere asked for the side yard setback. M. Hamor said it ranges from 5 feet to 10 feet.

M. Briere asked what retains the soil. M. Hamor said the rock will be completely removed, and noted the location of the retaining walls. M. Briere asked about the size of the retaining walls. M. Briere said the project does meet the neighborhood character. M. Hamor said it ranges from 6 feet to 0 feet. M. Hamor said the neighborhood is relatively walkable and fits with the surrounding multi-families. G. Theodorou added that DPD endorsed the project. M. Briere said is not supportive of the petition due to the density.

G. Theodorou noted the project meets density requirements for the UMF zone. M. Hamor said the alternative for the site is likely a 6 story building with parking below. G. Theodorou said if successful the property will be purchased from the City.

G. Procope expressed concern about the density. G. Procope said he is an advocate of involving the neighborhood and said the neighbor's should have a voice. G. Procope said he is concerned about the landscaping and understands the development meets the density requirements. G. Procope asked about the parking, G. Theodorou explained the parking. G. Theodorou stated that the proposal meets the same criteria as recently approved projects. G. Theodorou added that the density does not require relief.

V. Pech said he supports the idea that the City needs more housing, but is concerned about the density of the project.

S. Callahan expressed concern about trash removal. S. Callahan asked about a connection to the street on the other side of the driveway. M. Hamor said it may be possible, but the turn and hill would be difficult to maneuver. S. Callahan expressed concern about the loft being converted a bedroom. G. Theodorou said the building code provides that a room without closets cannot be labeled an office. S. Callahan said he wants to see the project scaled back. S. Callahan said he is opposed to the density and does not if the intent of zoning is met.

G. Theodorou said when they propose projects they try to build consensus, and requested a continuance. G. Theodorou noted nearby projects which the ZBA supported. G. Theodorou requested a continuance to two meetings down the road.

G. Perrin asked if the Willie Street property is necessary for the development. G. Theodorou confirmed this and added the on-street parking contribution in addition to purchasing the lot from the City. G. Theodorou said the applicant will be requesting parking permits and the spaces would be available to anyone with a parking permit. G. Perrin expressed concern about the lack of Fire Department comments. M. Hamor noted the provided access drive and sprinklers.

G. Perrin asked about the final height. M. Hamor said per the elevations it is approximately 35 feet and 3.5 stories. M. Hamor said they would look into adding a second exit on the parking area. G. Theodorou requested a continuance to the May 9, 2022 ZBA meeting.

#### Motion:

S. Callahan motioned, and G. Procope seconded the motion to continue the application to the May 9, 2022 meeting. The motion passed unanimously, (5-0).

### **III. Other Business**

#### **Minutes for Approval:**

##### 3/14/2022 meeting minutes

S. Callahan motioned, and M. Briere seconded the motion to approve the March 14, 2022 meeting minutes. The motion passed unanimously, (5-0).

### **IV. Adjournment**

S. Callahan motioned, and V. Pech seconded the motion to adjourn. The motion passed unanimously, (5-0). The time was 9:04 PM.

***Per Order of the City of Lowell Zoning Board of Appeals – Gary Perrin, Chairman***

***New business to be advertised by March 13, 2022 and March 20, 2022.***